



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Tremco, Incorporated

File: B-223623

Date: August 20, 1986

DIGEST

A protest filed with the General Accounting Office more than 10 working days after the contracting agency denied the firm's agency-level protest is untimely and will not be considered.

DECISION

Tremco Incorporated (Tremco) protests award of a contract to PKS, Inc. (PKS), under invitation for bids (IFB) No. IFB-0301-6 for roofing materials issued by the United States Department of Justice, Federal Bureau of Prisons. Tremco contends that award to PKS is improper because PKS's bid allegedly deviates from the specifications contained in the IFB.

We dismiss the protest as untimely, based on the contracting activity's report, in accordance with 4 C.F.R. § 21.3(f) (1984) which provides that when the propriety of a dismissal becomes clear only after information is provided by the contracting agency, we will dismiss the protest at that time.

The record indicates that by letter of March 7, 1986, Tremco protested the award of the roofing materials contract to the Federal Bureau of Prisons. Tremco asserted that the products bid by the awardee failed to comply with IFB specifications. By letter dated March 27, 1986, the Federal Bureau of Prisons contracting officer advised Tremco that its protest was without merit. In his letter, the contracting officer stated that a technical evaluation of the products bid was conducted and that all products met government minimum performance standards. The contracting officer further stated that award would be made to lowest priced bidder. Tremco protested to our Office on July 14, 1986.

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Our Bid Protest Regulations provide that if an initial protest has been filed timely with the contracting agency, we will consider a subsequent protest to this Office if it is filed within 10 working days after formal notification of or actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a)(3) (1986). Although it is unclear when Tremco received the agency's letter denying its protest, we generally estimate that it takes no more than 1 calendar week for mail to arrive. T. S. Head & Associates, Inc., B-220316, Sept. 30, 1985, 85-2 C.P.D. ¶ 368. Since Tremco did not file its protest with our Office until July 14, 1986, significantly beyond the 10 day period permitted under our regulations, its protest is untimely and will not be considered. Langfur Construction Corp., B-221954, Feb. 27, 1986, 86-1 C.P.D. ¶ 207.

Tremco also has requested a conference to discuss the merits of its protest. Where the merits of the protest are not for consideration, we believe that no useful purpose would be served by holding a conference. Logus Manufacturing Corp., B-216755, Jan. 8, 1985, 85-1 C.P.D. ¶ 25.



Robert M. Strong
Deputy Associate General Counsel